IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 16587 of 2007(Y)

PETITIONER:

V.K.RAMAKRISHNAN, GOVT. CONTRACTOR,
VELIKKULATHIL HOUSE, PAMBAKUDA P.O.,
MUVATTUPUZHA-VIA, ERNAKULAM DISTRICT.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER

RESPONDENTS:
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1. **TIRUR MUNICIPALITY, REP. BY ITS SECRETARY, OFFICE OF THE TIRUR MUNICIPALITY, TIRUR P.O., MALAPPURAM DISTRICT.**

2. **THE SECRETARY, TIRUR MUNICIPALITY, OFFICE OF THE TIRUR MUNICIPALITY, TIRUR PO, MALAPPURAM DISTRICT.**

3. **THE ACCOUNTANT GENERAL OF KERALA (AUDIT), THIRUVANANTHAPURAM.**

4. **STATE OF KERALA, REP. BY ITS SECRETARY TO GOVERNMENT, DEPT. OF LOCAL SELF GOVERNMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**

BY ADV. SRI.T.L.ANANTHASIVAN for R1 & R2
BY SR.GOVERNMENT PLEADER SRI. K.J.MOHAMMED ANZAR for R3&R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.16587/2007 Y

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE SCHEDULE OF WORK PUBLISHED BY THE 1ST RESPONDENT FOR THE CONSTRUCTION OF GALLERY BLOCK TO THE RAJIV GANDHI MUNICIPAL STADIUM AND SHOPPING COMPLEX PHASE 1.

EXT.P2: COPY OF THE AGREEMENT BEARING NO.55/2000-01 DTD. 7/11/2000 EXECUTED BY THE PETITIONER WITH THE 2ND RESPONDENT.

EXT.P3: COPY OF THE COMPARATIVE STATEMENT OF REVISED ESTIMATE OF THE WORK AWARDED TO THE PETITIONER AS PER AGREEMENT NO.55/2000-01 DTD. 7/11/2000.

EXT.P4: COPY OF THE LETTER DTD. 22/06/2004 FORWARDED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

EXT.P5: COPY OF THE EXPLANATION SUBMITTED BY THE 2ND RESPONDENT AS PER D.O.LETTER NO.P4-8902/2004 DTD. 22/07/2004.

EXT.P6: COPY OF THE LETTER NO.P4.8902/04 DTD. 19/08/2004 SUBMITTED BY THE 2ND RESPONDENT BEFORE THE 3RD RESPONDENT.

EXT.P7: COPY OF THE PROCEEDING BEARING NO.DB.E/15781/2000 DTD. 18/04/2000 OF THE SUPERINTENDING ENGINEER, THIRUVANANTHAPURAM CORPORATION.

EXT.P8: COPY OF THE LETTER NO.P1-1081/97 DTD. 21/08/2004 ISSUD BY THE 2ND RESPONDENT.

EXT.P9: COPY OF THE DECISION OF THE 1ST RESPONDENT DTD. 11/08/2004.

EXT.P10: COPY OF THE JUDGMENT DTD. 18/10/2004 IN WP(C) NO.28199/04 OF THIS HON'BLE COURT.

EXT.P11: COPY OF THE ORDER NO.LBA(HQ)/1/COURT CASE DTD. 12/2004 PASSED BY THE 3RD RESPONDENT.

EXT.P12: COPY OF THE REPRESENTATION DTD. 27/01/2005 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

EXT.P13: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) NO. 23298/06 DTD. 29/08/06.

EXT.P14: COPY OF G.O.(RT) NO.283/07/LSGD DTD. 24/01/07 ISSUED BY THE 4TH RESPONDENT.

EXT.P14(A): COPY OF THE REPRESENTATION DTD. 17/03/07 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT WITH ITS COPY TO THE CHAIRMAN OF THE 1ST RESPONDENT.

/TRUE COPY/

KSS **P.A.TO JUDGE**

PIUS C. KURIAKOSE, J.

W.P.(C) No. 16587 OF 2007

Dated this the 17th day of September, 2007

JUDGMENT

The grievance of the petitioner, a contractor of the 1st respondent Municipality is that there is inordinate delay in the matter of releasing the bill amounts due to him.

2. A detailed counter affidavit has been filed by the 4th respondent. Paragraph 3 & 4 of the same is as follows:

> "3. It is submitted that the Secretary, Tirur Municipality as per the decision of the municipal Council dated 20.04.2007 has moved the Government through the Director of Urban Affairs with request to take steps to waive the audit objections raised by the Accountant General of Kerala(Audit), the 3rd respondent. In the petition submitted by the Secretary, request has been made to reconsider the decision in the Government Order, Ext.P14.
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> 4. It is submitted that the Government has already required the Director of Urban Affairs, the Director of Local Fund Audit and the Chief Town Planner to furnish detailed reports/remarks in the matter. A final decision on the request of the Secretary, Tirur Municipality can be taken after consultation with the Departments like Law and Finance and the process may take some more time.

The review petition now submitted by the Tirur Municipality will be disposed by the Government on merits and after complying with all the required formalities."

2. Heard Sri.Babu Joseph Kuruvathazha, counsel for the petitioner, Sri. T.L.Anantha Sivan, Standing Counsel for the Municipality and Sri.C.M.Suresh Babu, Special Government Pleader, LSGD. Inviting my attention to paragraph 4 of the counter, Mr.C.M.Suresh Babu submitted that Government will require more time for taking a final decision in the matter. But, as rightly submitted by Mr.Babu Joseph, under Ext.P14 Government Order it has been clearly held by the Government that the petitioner cannot be penalised for the audit objection since it was not due to any fault on the part of the petitioner that the audit objection originated. Ext.P14, I find has attained finality. Nobody has challenged Ext.P14 in accordance with provisions of law. So long as Ext.P14 stand, even without any further clarification, the Municipality has to release the amounts due to the petitioner.

Under these circumstances, I dispose of the Writ Petition directing respondents 1 and 2 to comply with the directions contained in Ext.P14 forthwith, i.e., within one month of receiving copy of this judgment thereby ensuring release of the admitted bill amounts as per the agreement bearing No.55/2000-01 dated 07.11.2000.

PIUS C. KURIAKOSE, JUDGE

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